THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17180 of 2007

13.8.2007

Between:
Smt.Shaik Nasiboon @ Shaik Nasima

…Petitioner

And

The District Collector, Guntur District
And another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17180 of 2007

ORDER:

Petitioner is statedly in occupation of the land admeasuring Acs.3.59 in survey No.51/3 situated at Marripalem village of Yedlapadu Mandal in Guntur District. Her case is that the land was in occupation her husband as well as her father-in-law and at present she is in possession. To make the narration short, when the Mandal Revenue Officer (MRO), Yedlapadu Mandal (now the Tahsildar), issued notice on 19.7.2004 informing the petitioner that she should vacate the land as the land is described as Atchiraju Cheruvu, she filed W.P.No.13242 of 2004 seeking a writ of Certiorari. By order dated 29.7.2004, this Court disposed of the writ petition giving liberty to the petitioner to submit explanation to the said notice and the MRO was directed to consider explanation and pass necessary orders. Petitioner then submitted explanation on 20.9.2004. The Tahsildar appears to have conducted enquiry in the village in the presence of Sarpanch, ZPTC Members, MPTC Members and other village elders, on 18.4.2007. On such enquiry, he came to the conclusion that the land in survey No.51/3 of Marripalem is Atchiraju Cheruvu and informed the petitioner that it is in the custody of the Government for further public necessities. Aggrieved by the same, present writ petition is filed.

Learned Counsel for the petitioner submits that in the notice dated 19.7.2004, which was assailed in the earlier writ petition, respondents admit that the petitioner is in occupation of the land. He also relied on adangal for 1397 Fasli and the orders passed by the Court of II Additional District Judge, Guntur, in C.R.P.No.74 of 2005. In support of contention that the petitioner is very much in possession of

the land and that though the said land is called as Atchiraju Cheruvu, it is not classified as such in the revenue records. According to learned Counsel, the land is classified as cultivable land in the revenue records and any enquiry conducted by the Tahsildar behind the back of petitioner is not correct. He also submits that placing reliance on the statements of Sarpanch, ZPTC Members and MPTC Members ignoring the relevant revenue entries is irrelevant. He would urge that revenue entries would prevail over the Panchanama conducted by the MRO. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that the order is passed informing the petitioner that the land is in custody of the Government and that it is Atchiraju Cheruvu and therefore the petitioner can file appeal before Revenue Divisional Officer (RDO). He however does not dispute that if the petitioner is a landless and poor person and land in survey No.51/3 is cultivable land, she has right to seek assignment of land.

Petitioner has been making requests for assignment of the land. When there was a move to evict her on the ground that the land in her possession is Atchiraju Cheruvu, petitioner filed writ petition and this Court directed to conduct enquiry in the matter. At the time of the enquiry, it is urged that the Tahsildar ought to have taken into consideration all the revenue records and the claim of the petitioner for assignment. Though the Tahsildar did not specifically reject the claim of the petitioner for assignment, she was informed that the land which she claimed for assignment is Atchiraju Cheruvu kept under the control of the Government. If the petitioner has any grievance about this, her remedy is to approach the RDO and prefer appeal under BSO 15(15), in which event the appellate authority can conduct detailed enquiry with reference to the revenue records and also consider the claim of petitioner for assignment. This is certainly an effective remedy because even ultimately the plea of petitioner that the land in survey No.51/3 is not Atchiraju Cheruvu, still it is only revenue authority, who has to consider the claim of petitioner for assignment of patta as a landless poor person. For this reason alone, this Court is not inclined to entertain the writ petition.

Learned Counsel for the petitioner submits that the land has been in possession of the petitioner or her husband or her father-in-law for the last 25 years and any exercise to dispossess her was started when a request was made by persons belonging to Kummara community for allotment of lands for the community purpose. He apprehends that pending appeal before the RDO respondents might allot the land to Kummara community represented by one G.Anjaneyulu and others. Therefore this Court is of considered opinion that the petitioner should immediately file an appeal before the

RDO within a period of one week from the date of receipt of a copy of this order and after receiving the appeal, the RDO should inspect the land, conduct enquiry with reference to the revenue records in the presence of the petitioner and
other objectors and take decision with regard to the question whether the land in survey No.51/3 admeasuring Acs.3.59 is classified in the revenue records as tank poramboke and/or whether the petitioner is entitled for assignment of patta in respect of the said land. Till such exercise is completed, the land should be in the custody of the Tahsildar and that the land should not be assigned to any third parties. The RDO may dispose of the appeal within a period of eight weeks after receiving the appeal from the petitioner.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

August 13, 2007
NOTE:
Dispatch order copy by
21.8.2007.
(By order
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